IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION NO. 5:09-CR-178-1H

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This matter is before the court on defendant's motion to suppress evidence seized and statements made as a result of defendant's arrest and search of his residence. Following an evidentiary hearing held on February 8, 2010, Magistrate Judge David W. Daniel filed a Memorandum and Recommendation (M&R) recommending that defendant's motion and amended motion be denied. Defendant filed objections to the M&R. The government has not responded, and the time for doing so has expired. Therefore, this matter is ripe for adjudication.

Defendant offers no objection to the magistrate judge's factual findings but objects to the magistrate judge's legal conclusion that defendant voluntary abandoned a paper cup containing cocaine after being detained by officers of the Raleigh Police Department. He

¹Defendant originally filed his motion on November 25, 2009. Or January 29, 2010, defendant amended the motion to incorporate an additional argument.

contends that his detention was unlawful and that he is entitled to suppression of the paper cup and its contents, as well as his post-arrest confession (as fruit of the poisonous tree).

Defendant also objects to the magistrate judge's conclusion that the search of his residence was supported by probable cause. Defendant maintains that the search warrant affidavit provided an insufficient nexus between defendant's alleged drug activity and his residence and that the warrant was therefore invalid.

The court has carefully reviewed the magistrate judge's M&R, defendant's objections and other documents of record and is convinced that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved. Accordingly, the court hereby adopts the recommendation of the magistrate judge as its own. For the reasons stated in the M&R, the defendant's motion suppress, as amended, is DENIED.

This 2nd day of April 2010.

MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, N.C. #31